

ESTTA Tracking number: **ESTTA570761**Filing date: **11/13/2013**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Human Movement, LLC
Granted to Date of previous extension	11/13/2013
Address	1111 South Street Louisville, CO 80027 UNITED STATES

Attorney information	Katherine Keating Bryan Cave LLP 560 Mission Street, 25th Floor San Francisco, CA 94105 UNITED STATES katherine.keating@bryancave.com, jill.chalmers@bryancave.com Phone:415-268-1972
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Applicant Information

Application No	85821651	Publication date	07/16/2013
Opposition Filing Date	11/13/2013	Opposition Period Ends	11/13/2013
Applicant	Active Life Events, Inc. 33562 Yucaipa Blvd. # 4 - PMB# 141 Yucaipa, CA 92399 CANADA		

Goods/Services Affected by Opposition

Class 041. First Use: 0 First Use In Commerce: 0


All goods and services in the class are opposed, namely: Arranging and conducting athletic competitions; Athletic and sports event services, namely, arranging, organizing, operating and conducting marathon races; Encouraging amateur sports and physical education by organizing, sanctioning, conducting, regulating and governing amateur athletic programs and activities; Entertainment in the nature of competitions in the field of running; Organizing, arranging, and conducting running events


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	85863390	Application Date	02/28/2013
Registration Date	NONE	Foreign Priority	NONE

		Date	
Word Mark	UGLY SWEATER RUN		
Design Mark			
Description of Mark	The mark consists of a reindeer leaping over the word Ugly, that is between two parallel lines, that is on top of the word Sweater, that is on top of the word Run, whereas the word Run is enclosed with two snow flakes on each side, and whereas two lines are underneath the word Run.		
Goods/Services	Class 041. First use: First Use: 2011/01/01 First Use In Commerce: 2011/01/01 Entertainment services, namely, organizing community foot race sporting and cultural events		

U.S. Application No.	85863141	Application Date	02/28/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	UGLY SWEATER RUN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 041. First use: First Use: 2011/01/01 First Use In Commerce: 2011/01/01 Entertainment services, namely, organizing community foot race sporting and cultural events		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	UGLY SWEATER MARK		
Goods/Services	organizing community cultural and sporting events		

Attachments	85863390#TMSN.jpeg(bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/katherine keating/
Name	Katherine Keating
Date	11/13/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

HUMAN MOVEMENT, LLC,

Opposer,

v.

ACTIVE LIFE EVENTS, INC.,

Applicant.

Opposition No. _____

Serial No.: 85/821,651

Mark: UGLY SWEATER DASH

Filed: January 11, 2013

Published: July 16, 2013

Class: 41

NOTICE OF OPPOSITION

Human Movement, LLC (“Opposer”) believes it will be damaged by registration of Application No. 85/821,651 (the “Application”) for the mark UGLY SWEATER DASH (“Applicant’s Mark”), filed on January 11, 2013, by Active Life Events, Inc. (“Applicant”), and hereby opposes such registration. As grounds for opposition, Opposer alleges as follows:

1. Opposer is a Colorado limited liability company with its principal place of business at 1111 South Street, Louisville, Colorado 80024.
2. On information and belief, Applicant is a California corporation with its principal place of business at 33562 Yucaipa Blvd. #4 – PMB#141, Yucaipa, California 92399.
3. Opposer organizes community sporting and cultural events, including themed footraces. Opposer is recognized within its field as a leader in developing and administering such events.
4. Opposer owns common law rights in the mark UGLY SWEATER RUN, which it has used continuously in interstate commerce in connection with its footraces and related goods and services since at least as early as 2011.

5. Opposer owns pending federal application for the mark UGLY SWEATER RUN and UGLY SWEATER RUN and Design:



(App. Nos. 85/863,141 and 85/863,390), both in connection with “*entertainment services, namely, organizing community foot race sporting and cultural events.*” Both applications were filed on February 29, 2013.

6. Opposer has received a substantial amount of public recognition and critical acclaim for the events and related goods and services offered under its UGLY SWEATER RUN mark.

7. Opposer’s UGLY SWEATER RUN mark is inherently distinctive. Through Opposer’s widespread and continuous use of its UGLY SWEATER RUN mark, the mark has also also acquired extensive goodwill, developed a high degree of distinctiveness, and become well known and recognized as identifying goods and services that originate from Opposer.

8. Like Opposer, Applicant organizes community cultural and sporting events, including themed foot races.

9. In November 2012, Applicant’s principal, Kevin Sartin, began corresponding with Opposer’s principal, Jeff Suffolk, about possible collaboration between the companies, including with respect to Opposer’s UGLY SWEATER RUN series of events.

10. Less than two months after these discussions took place, on January 11, 2013, Applicant filed the Application for UGLY SWEATER DASH in connection with “*arranging and conducting athletic competitions; athletic and sports event services, namely, arranging, organizing, operating and conducting marathon races; encouraging amateur sports and*

physical education by organizing, sanctioning, conducting, regulating and governing amateur athletic programs and activities; entertainment in the nature of competitions in the field of running; organizing, arranging, and conducting running events.”

11. Applicant filed the Application on an intent-to-use basis.

12. Applicant did not use UGLY SWEATER DASH or any other variation of UGLY SWEATER RUN prior to the date of Opposer’s rights in its UGLY SWEATER RUN mark.

13. Mr. Sartin later admitted to Mr. Suffolk that Applicant filed the Application after discovering that Opposer did not yet own a federal application or registration for the mark UGLY SWEATER RUN and in the hope that Applicant’s filing of the Application might be useful in persuading Opposer to enter into a business relationship with Applicant.

14. Applicant’s use of variations of UGLY SWEATER RUN, including SWEATER DASH, have caused actual confusion in the marketplace as to whether Applicant’s goods and services originate with or are otherwise sponsored by or related to Opposer.

15. Applicant’s UGLY SWEATER DASH mark is confusingly similar to Opposer’s UGLY SWEATER RUN mark in sound, appearance, and commercial impression, and the use of Applicant’s Mark in connection with the services listed in the Application is likely to continue to cause confusion, mistake, and/or deception as to the source of Opposer’s and Applicant’s goods and services.

16. The services listed in the Application are directly competitive with, overlap with, and are promoted and offered through the same channels of trade to the same or same classes of consumers as the services with which Opposer uses its UGLY SWEATER RUN mark and with which Opposer seeks registration of the UGLY SWEATER RUN and UGLY SWEATER RUN and Design marks.

17. Opposer's first use of its UGLY SWEATER RUN mark precedes the filing of the Application and any use by Applicant of the UGLY SWEATER DASH mark.

18. Applicant's Mark falsely suggests a connection with Opposer and its goods and services.

19. Registration of Applicant's Mark will lead the public to incorrectly conclude that the goods and services with which Applicant uses its mark are or have been authorized, sponsored, or licensed by Opposer, resulting in damage to Opposer and the public.

20. Registration of Applicant's Mark would be inconsistent with Opposer's rights in its UGLY SWEATER RUN mark.

21. Registration of Applicant's Mark will damage Opposer because the public, the trade, and others are likely to believe that Applicant's goods and services offered under Applicant's Mark are authorized, sponsored, or endorsed by or are otherwise related to Opposer's goods and services.

22. Registration of Applicant's Mark will damage Opposer because such registration will support and assist Applicant in confusing and misleading the public in its use of marks that are similar to Opposer's UGLY SWEATER RUN mark, will give the misleading impression that Opposer is sponsoring or otherwise authorizing use of Applicant's Mark, will give the misleading impression that Opposer has approved any goods or services offered by Applicant under Applicant's Mark, and will give the color of exclusive right to Applicant in violation and derogation of the prior and superior rights of Opposer.

23. The Application has been cited by the Examining Attorney in office actions issued in connection with Opposer's pending applications (App. Nos. 85/863,141 and 85/863,390) as a basis for refusing registration if the Application matures to registration.

WHEREFORE Human Movement, LLC prays that this opposition be sustained and registration for Applicant's Mark in connection with all of the services listed in the Application be denied.

Respectfully submitted,

BRYAN CAVE LLP



Dated: November 13, 2013

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Attorneys for Human Movement, LLC